IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO. 601 OF 2006
IN
WRIT PETITION NO. 1528 OF 2006

Gangaram Vishnu Surje] .. Appellant

Versus

1. Indira Rashtriya Kamgar Sahakari Society Ltd. & Anr.] .. Respondents

Mr. I.A. Saiyed for the appellant.

Mr. P.M. Patel for the respondents.

CORAM: R.M. LODHA &
S.A. BOBDE, JJ.

DATED: 29TH AUGUST, 2006

P.C. :

. We heard the counsel for the parties. Three different applications were made under Section 33C(2) of the Industrial Disputes Act, 1957 by different group of workmen. Each of the employees in the three applications - Application (IDA) No.261 of 2002, Application (IDA) No.262 of 2002 and Application (IDA) No.263 of 2002 - claimed the wages for the period from 1978 to 1985 based on the Award dated 30th July, 1990.

2. By the order dated 30th October, 2004 the Labour Court granted uniform payment of Rs.3,960/- to all employees for the years 1978, 1979 and 1980. The group of workmen who were parties in Applications (IDA) No.261 of 2002, 262 of 2002 and 263 of 2002 filed separate Writ Petitions. Writ Petition No.809 of 2005 was at the instance of 53 workmen who had filed Application (IDA) No.261 of 2002. Writ Petition No. 1251 of 2005 was at the instance of the workmen who were parties to Application (IDA) No.262 of 2002, while Writ Petition No.1722 of 2005 was filed by the workmen who were parties to Application (IDA) No.263 of 2002.

3. Writ Petition No.809 of 2005 arising out of Application (IDA) No.261 of 2002 was decided by the learned single Judge of this Court on 28th March, 2005. Writ Petition No.1251 of 2005 was disposed on 2nd May, 2005, while Writ Petition No.1772 of 2005 was admittedly disposed of, both the counsel for the parties are unable to give the date of disposal of Writ Petition No.1722 of 2005. The counsel are ad-idem that Writ Petition No.1251 of 2002 was from Application (IDA) No.262 of 2002, but in the order dated 2nd May, 2005 the Application number has wrongly been mentioned as Application (IDA) No.261 of 2002.

4. Insofar as Writ Petition No.809 of 2005 arising out of Application (IDA) No.261 of 2002 is concerned, the learned single Judge set aside the order of the Labour Court and restored the said application to the file of the Labour Court. The Labour Court was directed to dispose of the application expeditiously and preferably by 30th September, 2005. Writ Petition No.1251 of 2005 was also allowed and the order of the Labour Court dated 30th March, 2004 in Application (IDA) No. 262 of 2002 (sic 261 of 2002) was quashed and set aside and the Labour Court was directed to hear and decide the said application expeditiously and preferably by 30th September, 2005. We are informed that Writ Petition No.1722 of 2005 was dismissed by the learned single Judge and the order of the Labour Court passed in Application (IDA) No.263 of 2005 was maintained.

5. After remand, the Labour Court disposed of the Application (IDA) No.261 of 2002 by the order dated 3rd October, 2005 by passing the following order:

> "1. Application is partly allowed as under:
>
> 2. The opponent Society is hereby directed to pay an amount of Rs.1188 to

applicant Chappa Malappa Waghmare, Rs.1188 to Daulat Baburao Vitha, Rs.790/- to Jaoi Ahmed Shaikh, Rs.900/- to Durbai Turi Jaiswal, Rs.900/- to Vishnu More, Rs.724/- to Hihut Jagal Rajbhar, Rs.800/- to Bhagarathi Rajbhar, Rs.850/- to Jairam Rajbhar, Rs.1084/- to Tukaram Shinde, Rs.1084/- to Rajaramjaiswal, Rs.1084/- to Umashankar Yadav, Rs.517/- to Jiyalal Ramraj Yadav, Rs.490/- to Lakai Rajbhar, Rs.606/- to Budhiram Rajbhar, Rs.614/- to Ramkaran Rajbhar, Rs.555/- to Rajhali Rajbhar, Rs.532/- to Vishnu Rajbhar, Rs.511/- to Sahebrao Nimbalkar, Rs.532/- to Vishnu Rajbhar, Rs.511/- to Sahebrao Nimbalkar, Rs.532/- to Gopinath Malaknath, Rs.525/- to Bhagwan Waghmare, Rs.878/- to Siddappa Kamble, Rs.1068/- to M.S. Mahammad, Rs.504/- to Bhausaheb, Rs.532/- to Arjun Kamble, Rs.533/- to Yellappa Kamble, Rs.535/- to Dyanappa Kamble, 562 to Sambha Parbale, Rs.648/- to Narayan Ganpat Valikar, Rs.540/- to Yesappa Devarmani, Rs.540/- to Suhas Mane, Rs.540/- to Annasaheb Karde, Rs.540/- to Uttam Chavan, Rs.540/- to Shrimati Satpute, Rs.540/- to Shivaji Galande, Rs.314/- to Mayappa Mane, Rs.777/- to Maruti Sonawane, Rs.620/- to Tanaji Nimbalkar, Rs.458/- to Shrinath Rajbhar, Rs.348/- to Harinath Rajbhar, Rs.452/- to Suidhakar Rajbhar, Rs.127/- to Baban Chavan, Rs.725/- to Sudam Bhokare, Rs.559/- to Dada Chorad, Rs.618/- to Khadaru Rajbhar, Rs.1042/- to Tukaram Mashal, Rs.1154/- to Namdev Mane, Rs.1154/- to Nijam Tambali, Rs.1154/- to Jaywant Patil, Rs.1154/- to Dhanaji Gawade, Rs.980/- to Viram Mukale, Rs.1189/- to Sampat Karje, Rs.418/- to Gangaram Sarje.

3. The Opponent Society is also directed to pay interest on the aforesaid amount to the applicants at the rate of 12% p.a. from the date of award i.e. 20.7.1990 till realization of the aforesaid amount."

6. The aforesaid order passed by the Xth Labour

Court, Mumbai is impugned by filing Writ Petition No.1528 of 2006. The learned single Judge of this Court dismissed the said Writ Petition on 6th July, 2006, giving rise to the present Appeal.

7. The counsel for the appellant urged that insofar as Application (IDA) No.262 of 2002 and Application (IDA) No.263 of 2002 are concerned, the same were overlooked by the Labour Court and decision has only been given in respect of Application (IDA) No.261 of 2002. The counsel would also urge that the Labour Court did not consider the evidence led by the workmen and thereby calculated the amount payable to the workmen wrongly.

8. We thoughtfully considered the submissions of the counsel for the appellant. None of the contentions has any merit. While noticing the facts, we have already indicated that three Applications being Application (IDA) No.261 of 2002, Application (IDA) No.262 of 2002 and Application (IDA) No.263 of 2002 related to separate group of workmen. Insofar as Application (IDA) No.263 of 2002 is concerned, the Writ Petition No.1722 of 2005 filed by that group of workmen challenging the order of the Labour Court was dismissed. In other words, the earlier order passed by

the Labour Court in Application (IDA) No.263 of 2002 was upheld. That controversy having already attained finality, the order dated 3rd October, 2005 obviously was not applicable to Application (IDA) No.263 of 2002. Similarly, insofar as Application (IDA) No.262 of 2002 is concerned, the separate order came to be passed by the learned single Judge on 2nd May, 2005 in Writ Petition No.1251 of 2005. The order dated 3rd October, 2005 passed by the Xth Labour Court is apparently not in Application (IDA) No.262 of 2002. Obviously, the Labour Court shall pass appropriate order on the said Application pursuant to the order of remand dated 2nd May, 2005. The order dated 3rd October, 2005 is confined to Application (IDA) No.261 of 2002. That answers the first submission of the counsel for the appellant.

9. Insofar as second submission advanced by the counsel for the appellant is concerned, the witness Shri Chinappa Malappa Waghmare has admitted in cross-examination that they cannot file their calculation. It would be thus seen that the appellant did not file any calculation/computation before the Labour Court. In that backdrop, their challenge to the calculation submitted by the Society was unjustified.

10. On thoughtful consideration of the order passed by the Xth Labour Court on 3rd October, 2005 we are satisfied that the Labour Court has considered the evidence available on record and the operative order cannot be said to suffer from any legal infirmity. The learned single Judge, in the circumstances, cannot be said to have erred in dismissing the Writ Petition.

11. We, accordingly, dismiss the Appeal.

Sd/-
[R.M. LODHA, J.]

Sd/-
[S.A. BOBDE, J.]